



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. [MT-035-FOR]; Docket ID: OSM-2013-0009;  
S1D1SSS08011000SX066A00067F134S180110;  
S2D2SSS08011000SX066A00033F13XS501520]

Montana Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement,  
Interior.

**ACTION:** Proposed rule; public comment period and opportunity for  
public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the  
Montana regulatory program (hereinafter, the "Montana program")  
under the Surface Mining Control and Reclamation Act of 1977  
("SMCRA" or "the Act"). Montana proposes revisions and additions  
to statute regarding permit application requirements, prospecting  
application requirements, annual reporting requirements for coal

permittees, and lawsuits for damages to water supplies. Montana is also proposing to revise its rules at Administrative Rules of Montana (ARM) 17.24 subchapter 10 to incorporate rule changes regarding a new expedited coal prospecting permitting process.

This document gives the times and locations that the Montana program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., [m.d.t.] [Insert date 30 days after date of publication in the Federal Register]. If requested, we will hold a public hearing on the amendment on [Insert date 25 days after date of publication in the Federal Register]. We will accept requests to speak until 4:00 p.m., [m.d.t.] on [Insert date 15 days after date of publication in the Federal Register].

**ADDRESSES:** You may submit comments by either of the following two methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). This proposed rule has been assigned Docket ID: OSM-2013-0009. If you

would like to submit comments through the Federal eRulemaking Portal, go to [www.regulations.gov](http://www.regulations.gov) and do the following. Click on the "Advanced Docket Search" button on the right side of the screen. Type in the Docket ID "OSM-2013-0009" and click the "Submit" button at the bottom of the page. The next screen will display the Docket Search Results for the rulemaking. If you click on OSM-2013-0009, you can view the proposed rule and submit a comment. You can also view supporting material and any comments submitted by others.

- Mail/Hand Delivery/Courier:

Alan Boehms, Denver Field Branch Chief

Denver Field Division

Office of Surface Mining Reclamation and Enforcement

1999 Broadway Suite 3320

Denver, CO 80202

For detailed instructions on submitting comments and additional information on the rulemaking process, see the "III. Public Comment Procedures" in the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to viewing the docket and obtaining copies of documents at [www.regulations.gov](http://www.regulations.gov), you may review copies of the

Montana program, this amendment, a listing of any public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may also receive one free copy of the amendment by contacting OSM's Casper Field Office.

Jeffrey Fleischman, Chief  
Denver Field Division  
Office of Surface Mining Reclamation and Enforcement  
Dick Cheney Federal Building, POB 11018, 150 East B Street  
Casper, Wyoming 82601-1018

Edward L. Coleman, Bureau Chief  
Industrial and Energy Minerals Bureau  
Montana Department of Environmental Quality  
P.O. Box 200901  
Helena, Montana 59620-0901  
(406) 444-4973  
ecoleman@mt.gov

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Fleischman, Telephone:  
(307) 261-6550. Internet: [jfleischman@osmre.gov](mailto:jfleischman@osmre.gov).

## **SUPPLEMENTARY INFORMATION:**

- I. Background on the Montana Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

### **I. Background on the Montana Program**

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act...; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, Federal Register (45 FR

21560). You can also find later actions concerning Montana's program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

## **II. Description of the Proposed Amendment**

By letter dated August 20, 2013, Montana sent us a proposed amendment to its program (Administrative Record Document ID No. OSM-2013-0009-0001) under SMCRA (30 U.S.C. 1201 et seq.).

Montana sent the amendment to include the changes made at its own initiative.

Specifically, Montana proposes changes to the Montana Strip and Underground Mine Reclamation Act (MSUMRA) that pertain to permit application requirements, coal prospecting application requirements, annual reporting requirements for coal permittees, and lawsuits for damages to water supplies. Montana intends to revise its program to comply with changes made in the Montana Legislature as a result of the passage of Senate Bills 286 and 92. These statutory changes are codified at Montana Code Annotated (MCA) 82-4-222, 82-4-226, 82-4-237, and 82-4-253. Additionally, Montana is proposing to implement rule changes at ARM 17.24 subchapter 10 regarding a modified coal prospecting permitting process. The full text of the program amendment is

available for you to read at the locations listed above under **ADDRESSES**.

### **III. Public Comment Procedures**

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Montana program.

#### Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those

listed above (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

#### Public Availability of Comments:

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [m.d.t.] on [Insert date 15 days after date of publication in the Federal Register]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

#### Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

#### **IV. Procedural Determinations**

## Executive Order 12866 - Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

## Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

August 28, 2013

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Allen D. Klein

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Date

Director, Western Region

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Date: 10/25/2013]